

REMARKS

Claims 1 through 23 and 27 through 32 are pending in this application. Claims 1, 16, 19, 22, 23, and 27 through 32 have been amended. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, page 25, lines 22 through 29 and page 27, lines 15 through 29 of the written description of the specification. Applicants submit that the present Amendment does not generate any new matter issue.

Claims 23 and 32 were rejected under the second paragraph of 35 U.S.C. § 112.

This rejection is respectfully traversed. To expedite prosecution, the claims have been clarified, consistent with the Examiner's courteous suggestions, thereby overcoming the stated bases for the imposed rejection. Clearly, the now claimed inventions comply with the second and sixth paragraphs of 35 U.S.C. § 112. Accordingly, withdrawal of the rejection of claims 23 and 32 under the second paragraph of 35 U.S.C. § 112 is solicited.

Claims 16 through 19, 29, and 30 were rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

This rejection is respectfully traversed. Independent claims 16 and 29 have been clarified such that the recited method steps are respectively being performed by a promotion server and a communication terminal, which is clearly directed to statutory subject matter within 35 U.S.C. § 101. Additionally, independent claim 19 has been clarified such that the apparatus includes a processor, which is also clearly directed to statutory subject matter within 35 U.S.C. § 101. Dependent claims 17, 18, and 30 depend from claims 16 and 29 and are therefore also

directed towards statutory subject matter. Accordingly, withdrawal of the rejection of claims 16 through 19, 29, and 30 under 35 U.S.C. § 101 as directed to non-statutory subject matter is solicited.

Claims 1 through 18, 27 through 29, 31, and 32 were rejected under 35 U.S.C. 103(a) for obviousness predicated upon *Strietzel* (U.S. 2001/0051517) in view of *Reese* (U.S. 2003/0191685).

This rejection is respectfully traversed.

There are fundamental differences between the claimed inventions and the applied references that undermine the obviousness conclusion under 35 U.S.C. § 103. Specifically, and most compelling, none of the applied references taken singly or in combination disclose or remotely suggest the methods, systems, and apparatuses defined by independent claims 1, 16, 27, 29, 31, and 32, particularly the following claim limitations:

“sending by said promotion server, said **promotion message communicating an event scheduled to start at a defined start time** to one or more communication terminals...**sending a reminder** for said event to said accepting communication terminal **based on said communicated defined start time** through said first communication network via said promotion server” (emphasis added) as recited in amended method claim 16 and similarly recited in claims 1, 31, and 32; and

“receiving, by a communication terminal, a promotion message from a promotion server, the **promotion message communicating an event scheduled to start at a defined start time**...receiving, by said communication terminal a **reminder signal from said promotion server based on said communicated defined start time**; and outputting playback of said reminder signal by said communication terminal” (emphasis added) as recited in amended method claim 29 and similarly recited in claim 27.

Applicants stress that neither *Strietzel* nor *Reese* discloses or suggests the concept of sending or receiving a “promotional message communicating an event scheduled to start at a defined start time” or sending or receiving “a reminder...based on said communicated defined

start time” as in the claimed inventions. Applicants stress that each of claims 1, 16, 27, 29, 31, and 32 requires that the promotional message is “communicating an event scheduled to start at a defined start time” **and** further requires that the reminder is “based on said communicated defined start time.” Again, these features of the claimed invention are neither disclosed nor suggested by the applied prior art.

Indeed, the Examiner recognized (page 16 of the Office Action) that *Strietzel* does not disclose or suggest “promotion message associated with an **event having a defined start time.**” (Emphasis added). Going one step further, it is apparent that *Strietzel* also does not disclose or suggest “said promotion message **communicating an event scheduled to start at a defined start time**” (emphasis added). Nor does *Strietzel* disclose or suggest “**sending a reminder for said event to said accepting communication terminal based on said communicated defined start time.**” (Emphasis added). Thus there is a chasm between the claimed inventions and *Strietzel* that cannot be bridged by the secondary reference to *Reese*.

The Examiner asserted that *Reese* discloses or suggests “promotional message associated with an event having a defined start time,” citing paragraphs [0015] and [0016] of *Reese* reproduced below:

“[0015] According to exemplary embodiments, targeted messages are sent to **users or consumers at the time(s) and destination(s) they designate.** For this purpose, a user provides information describing a desire to receive a notification message associated with an event at a particular time(s) and destination(s), e.g., by entering such information via a website associated with the event or via an e-mail or wireless message to an address associated with the event.

[0016] The user is contacted at the **appropriate time and destination** with a message containing information associated with the event. This information may include a reminder about the event and/or information regarding a product, service, or other event(s) associated with the event. Once the user acts on the message or its content, a virtual data exchange commences, and an interactive forum is created.” (Emphasis added).

However, even with the above-quoted evulgations, the chasm between the claimed inventions and *Reese* remains unbridged. This is because *Reese* clearly does **not** disclose or suggest “said promotion message **communicating an event scheduled to start at a defined start time**” (emphasis added), much less sending or receiving a “**reminder for said event** to said accepting communication terminal **based on said communicated defined start time**.” (Emphasis added). Instead, *Reese* recites that a user or consumer designates a time and destination for receiving a targeted message. The user in *Reese* provides the information and a desire to receive a notification message associated with an event, the notification message to be received at a particular time and destination that the user designates. The user is then contacted at the designated time and destination with the message.

This is clearly **different** from the inventions defined in independent claims 1, 16, 27, 29, 31, and 32, which require a promotion message that communicates an event scheduled to start at a defined start time to one or more communication terminals **and** sending/receiving a reminder to the communication terminal based on the communicated defined start time. *Reese* does not disclose or suggest “**communicating an event scheduled to start at a defined start time**” as recited in claims 1, 16, 27, 29, 31, and 32, **because the user of *Reese* inputs times and destinations used for a notification message instead of receiving the information in a promotional message.** Thus, a user in *Reese* does **not receive** a promotional message or any content associated with a promotional message, but instead **initiates** communication.

There is yet another difference between the claimed inventions and *Reese* that undermines the obvious conclusion. *Reese* does **not** disclose or suggest sending or receiving a “**reminder for said event...based on said communicated defined start time**” (emphasis added), because the notification message recited by *Reese* is based on user input instead of a “communicated

defined start time” as recited in claims 1, 16, 27, 29, 31, and 32. In fact, the method and system of *Reese* would be rendered **inoperable** if any messages sent by the *Reese* method or system was not based on a user input describing the time or destination the user desires to receive a personalized message. (*See Reese*, claim 1).

It is therefore apparent that even if the applied references are combined as proposed by the Examiner, and Applicants do not agree that the requisite realistic motivation has been established, the inventions defined in independent claims 1, 16, 27, 29, 31, and 32 and all claims depending therefrom would not result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044 (Fed. Cir. 1988). Applicants therefore submit that the imposed rejections of independent claims 1, 16, 27, 29, 31, and 32 and claims 2 through 15, 17, 18, and 28 that depend therefrom under 35 U.S.C. § 103(a) is not factually or legally viable and, hence, solicit withdrawal thereof.

Claims 19 through 23 and 30 were rejected under 35 U.S.C. 103(a) for obviousness predicated upon *Strietzel* (U.S. 2001/0051517).

This rejection is respectfully traversed.

Independent claim 19 has been clarified by including claim features similar to those argued in traversing the above rejection of claim 27 under 35 U.S.C. § 103. In particular, claim 19 recites “receive a promotional message communicating an event scheduled to start at a defined start time through a first communication network...receive a reminder signal for said event based on the communicated defined start time; and output playback of said reminder signal.” Applicants incorporate herein the arguments previously advanced in traversing the imposed rejection of claim 27 under 35 U.S.C. § 103(a) for obviousness predicated upon *Strietzel* in view of *Reese*. No additional reference was cited to cure the argued deficiencies of *Strietzel*,

and the Examiner's additional comments do not cure the previously argued deficiencies of *Strietzel*.

Claim 30 is dependent from claim 29. Applicants incorporate herein the arguments previously advanced in traversing the imposed rejection of claim 29 under 35 U.S.C. § 103(a) for obviousness predicated upon *Strietzel* in view of *Reese*. No additional reference has been cited to cure the argued deficiencies of *Strietzel*, and the Examiner's additional comments do not cure the previously argued deficiencies of *Strietzel*.

Applicants therefore submit that the imposed rejection of claims 19 through 23 (claims 20 through 23 depending from claim 19) and 30 under 35 U.S.C. § 103(a) is not factually or legally viable and, hence, solicit withdrawal thereof.

Based upon the foregoing, it is apparent that the imposed rejections have been overcome, and that all active claims are in condition for immediate allowance. Favorable consideration therefore is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at 703-519-9954 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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Date

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